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May 15, 2015

BY ECF

Hon. Jesse M. Furman
United States District Judge
40 Centre Street, Room 2202
New York, New York 10007

Re: Michael Ward v. Barnes & Noble, Inc., et al., 13 Civ. 7851 (JMF)

Dear Judge Furman:


We represent Defendants in the above-entitled action.

Defendants respectfully request that the Court schedule a pretrial conference in this matter at its earliest convenience. As Your Honor can see from Plaintiff's portions of the Joint Pretrial Order and from Defendants' Motion *in Limine*, both filed today on ECF, notwithstanding the Court's earlier decisions on summary judgment (Dkt. Nos. 38 and 51), it appears Plaintiff intends to raise at trial claims that go well beyond the "scope of the claim that remains in this case" (*see* May 14, 2015 Order, Dkt. No. 57), which is limited to the single page of game instructions in the books at issue. By way of example only, among such claims is a never-before-asserted damages claim for over \$3.7 million, including statutory damages, counsel fees and interest (*see* Joint Pretrial Order, Dkt. No. 59, Plaintiff's Statement of Damages (Section XIII.A), and Plaintiff's Proposed Special Verdict Form (Ex. F)). Accordingly, Defendants believe a pretrial conference would be helpful to address these and other pretrial issues, and establish appropriate parameters for trial.

We thank the Court for its consideration.

Respectfully,

ARNOLD & PORTER LLP

By: 
Louis S. Ederer

Enclosures

cc: Barry E. Janay, Esq. (*by email*)